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KARNATAKA LEGISLATIVE ASSEMBLY

NOTIFICATION

No. 463 L.A. Dated 10th April 1975

The following Bill was introduced in the Legislative Assembly on 7th April, 1975.

THE KARNATAKA STAMP (AMENDMENT) BILL, 1975.

(L.A. Bill No. 20 of 1975)

A Bill further to amend the Karnataka Stamp Act, 1957.

Whereas it is expedient further to amend the Karnataka Stamp Act, 1957 (Karnataka Act 34 of 1957) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Twenty-sixth Year of the Republic of India as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Karnataka Stamp (Amendment) Act, 1975.

(2) (a) It shall come into force on the first day of May 1975 in the City of Bangalore, the City of Hubli-Dharwar and the City Municipalities of Mysore, Mangalore, Belgaum, Gulbarga, Bellary, Davanagere, Bijapur, Shimoga and Bhadravati.

(b) It shall come into force in such other areas on such date as the State Government may, by notification, specify and different dates may be specified for different areas.

2. **Amendment of section 26.**—In section 26 of the Karnataka Stamp Act, 1957 (Karnataka Act 34 of 1957) (hereinafter referred to as the principal Act),—

(i) in the opening paragraph, the words "or where the consideration for a conveyance is an annuity or other sum payable periodically" and "or the consideration for such conveyance, as the case may be" shall be omitted;

(ii) in clause (b), the words "or conveyance" in the two places where they occur shall be omitted;

(iii) in clause (c), the words "or conveyance" shall be omitted.

3. **Amendment of section 28.**—In section 28 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

" (3) In the areas where section 45A is in force, the instruments referred to in the said section shall fully and truly set forth the market value of the property which is the subject matter of the instrument and such other particulars as the State Government may by rules prescribe."

4. **Substitution of new section for section 29.**—For section 29 of the principal Act, the following section shall be substituted, namely :—

"29. **Direction as to duty in case of certain conveyances.**—Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with advolorem duty in respect of the market value of the property which is the subject matter of conveyance and is duly stamped accordingly, any conveyance to be afterwards made to him for the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the market value of the property which is the subject matter of the conveyance or where such duty would exceed ten rupees, with a duty of ten rupees."

5. **Insertion of new section 45A.**—After section 45 of the principal Act, the following section shall be inserted, namely :—

" 45A. **Instrument of conveyance, etc. undervalued how to be dealt with.**—(1) If the registering officer appointed under the Registration Act, 1908 (Central Act XVI of 1908) while registering any instrument of conveyance, exchange or gift has reason to believe that the market value of the property which is the subject matter of conveyance, exchange or gift has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Deputy Commissioner for determination of the market value of such property and the proper duty payable thereon.

(2) On receipt of a reference under sub-section (1), the Deputy Commissioner shall, after giving the parties a reasonable opportunity of being heard and after holding an inquiry in such manner as the State Government may by rules prescribe, determine by order the market value of the property which is the subject matter of conveyance, exchange or gift and the duty payable thereon. The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty.

(3) The Deputy Commissioner may, **suo motu** within two years from the date of registration of any instrument of conveyance, exchange or gift not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of conveyance, exchange, or gift and the duty payable thereon and if after such examination he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine by order the market value of such property and the duty payable thereon in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty:

Provided that nothing in this sub-section shall apply to any instrument registered before the commencement of the Karnataka Stamp (Amendment) Act, 1975.

(4) The order of the Deputy Commissioner under sub-section (2) or (3) shall be communicated to the person liable to pay the duty. A copy of every such order shall be sent to the registering officer concerned.

(5) Any person aggrieved by an order of the Deputy Commissioner under sub-section (2) or sub-section (3) may, prefer an appeal before the District Judge and all such appeals shall be preferred within such time and be heard and disposed off in such manner as the State Government may by rules prescribe.

Explanation.—For the purposes of this Act, market value of any property shall be estimated to be the price which in the opinion of the Deputy Commissioner or the appellate authority as the case may be, such property would have fetched or fetch, if sold in the open market on the date of execution of the instrument of conveyance, exchange or gift."

6. Amendment of section 68.—In section 68 of the principal Act,—

(1) in clause (c), the word "and" shall be omitted;

(2) after clause (d) and before the proviso, the following clauses shall be inserted namely:—

"(e) the manner of holding inquiry under section 45A(2); and

(f) the time within which an appeal shall be preferred and the manner in which such appeal shall be heard and disposed of by the District Judge".

7. Amendment of section 70.—In section 70 of the principal Act, for the words "at a price not exceeding twenty five naye paise per copy", the words "at such price as the State Government may from time to time fix, per copy" shall be substituted.

8. Amendment of Schedule.—In the Schedule to the principal Act,—

(1) in article 15, in the second column of clause (c), for the word "consideration", the words "market value" shall be substituted;

(ii) in article 20, in the first column, for the words "where the amount or value of the consideration for such conveyance as set forth therein", the words "where the market value of the property which is the subject matter of conveyance" shall be substituted;

(iii) in article 26, for the entry in the second column, the following entry shall be substituted, namely :—

"The same duty as a conveyance(No. 20) for a market value equal to the market value of the property of greatest value which is the subject matter of exchange." ;

(iv) in article 27, in the entries in the second column of clause (a) and of sub-clause (i) of clause (b), for the words "for a consideration", the words "for a market value" shall be substituted ;

(v) in article 28, for the entry in the second column, the following entry shall be substituted, namely :—

"The same duty as a conveyance (No. 20) for a market value equal to the market value of the property which is the subject matter of gift" ;

(vi) in article 30 in the entries in the second column, for the word "consideration" wherever it occurs the words "market value" shall be substituted ;

(vii) in article 34, in the second column of clause (a) for the word "consideration", the words "market value' shall be substituted ;

(viii) in article 41, for the entry in the second column of clause (e), the following entry shall be substituted, namely :—

"The same duty as a conveyance (No. 20) for a market value equal to the amount of the consideration".

(ix) in article 44, for the entry in the second column (a), the following entry shall be substituted, namely :—

"The same duty as a conveyance (No. 20) for a market value equal to the amount of such consideration as set forth in the re-conveyance." ;

(x) in article 49, in the entry in the second column, for the word "consideration", the words "market value" shall be substituted ;

(xi) in article 53, in the entry in the second column, for the words "for a consideration", the words "for a market value" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

It has been observed that there is wide-spread under-valuation of properties by persons who buy and sell properties in urban areas. A pilot study of 1052 cases carried out in Bangalore City showed that in nearly 70 per cent of the cases the valuation mentioned in the sale deed was less than half the market value computed objectively by the survey authorities. This means evasion of stamp duty as well as avoidance of registration charges. There is consequent loss of revenue to the State under both counts. The object of the Bill is to enable the Government to recover the right amount of stamp duty wherever under valuation of property is noticed at the time of registration of the properties. Some consequential amendments are also being made. For example, the present schedule of stamp duty rates is based upon the amount of consideration mentioned in the document. This basis is being changed to the market value. Likewise some other consequential changes have also been proposed in the Bill.

To begin with the new measure will be given effect to in the Cities having a population of more than one lakh and the Government is taking the power to extend it to other urban areas in due course.

FINANCIAL MEMORANDUM

It has been observed that there is widespread under-valuation by persons who effect sales of properties in urban areas. It is proposed to introduce legislation which will enable Government to recover the right amount of stamp duty wherever under-valuation of property is noticed at the time of registration of documents. To begin with, the measure will be given to in Cities having a population of more, than one lakh.

It is gathered that 20,000 sale deeds of properties are registed during the year in the six-Sub-Registry Offices in the Bangalore City Corporation area involving transactions of about Rs. 20 crores. Assuming that under valuation takes place in about 70 per cent cases and its value is 50 per cent this would mean that the total additional value involved in the transactions according to market rates is of the order of Rs. 14 crores in Bangalore alone. Special steps are considered necessary to review these cases. For this purpose two Assistant Commissioners with supporting staff of one Second Division Clerk, one Typiest and one peon for each Assistant Commissioner are being sanctioned. Annual expenditure on this account including other miscellaneous expenditure (i.e., Rs. 37,000 (Staff Rs. 32,000 plus Rs. 5,000 miscellaneous). As against the expected additional revenue (Rs. 50 lakhs under stamp duty and Rs. 10 lakhs under registration for the whole State) this is a small amount.

In regard to other areas this work can be attended to by Headquarters Assistants to the Deputy Commissioners concerned and the Assistant Commissioners of the areas concerned as the case may be under the supervision of Special Deputy Commissioner.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3.—Sub-section (3) of section 28 sought to be inserted by this clause empowers the State Government to prescribe by rules the other particulars to be furnished under section 45A.

Clause 5.—Section 45A sought to be inserted by this clause, empowers the State Government to prescribe by rules, the time within which an appeal shall be preferred and the manner in which such appeal shall be heard and disposed of by the District Judge.

N. HUTCHMASTY GOWDA

Te. Hanumanthappa,
Secretary

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